

Young / Sommer LLC

ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

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Final Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
<p>AIR</p> <p>NEW YORK STATE Solvent Cleaning Processes and Industrial Cleaning Solvents 6 NYCRR Part 226</p>	<p>DEC revised its existing solvent metal cleaning regulations to cover solvent cleaning generally and make other changes. Previously, 6 NYCRR Part 226 focused on solvent degreasing of metal. With this rulemaking, DEC divided Part 226 into two subparts: Subpart 226-1, Solvent Cleaning Processes, and Subpart 226-2, Industrial Cleaning Solvents. Subpart 226-1 largely mirrors the previous regulation, which covered comparatively large cold cleaning degreasers, open-top vapor degreasers and conveyORIZED degreasers. Key changes include: expanding the applicability of the rule to cleaning of non-metal as well as metal parts; changing the volatile organic compound (VOC) content standards applicable to cold cleaning degreasing from solvent with a maximum vapor pressure of 1.0 mm Hg at 20 degrees Celsius to no more than 25 grams of VOC per liter of cleaning solution; and clarifying when process-specific reasonably available control technology demonstrations must be submitted. No changes were made to the standards for open-top vapor degreasers and conveyORIZED degreasers.</p> <p>New Subpart 226-2, Industrial Cleaning Solvents, applies to any facility with actual emissions of three tons or more of VOCs from industrial cleaning solvents on a twelve-month rolling total basis, subject to a wide range of exceptions for activities covered by other standards. The regulations impose a variety of work practices on regulated entities, including requiring use of closed, non-leaking containers to store or dispose of solvent impregnated cloth or absorbents; properly disposing of used cleaning solvents and tools; and implementing equipment practices that minimize emissions such as requiring the use of industrial cleaning solvent that meets specified VOC content standards or utilizing an emission control system with an overall control efficiency of at least 85 percent or equivalent control. In addition, the facility must keep records of the quantity and type of industrial cleaning solvents used. In response to public comments, DEC dropped a “once in, always in” provision.</p> <p>The rule can be found on DEC’s website at: www.dec.ny.gov/regulations/116332.html.</p>	<p>Subpart 226-1 applies to owners/operators of facilities that operate cold cleaning degreasers (including remote reservoir cold cleaning machines), open-top vapor degreasers, and all types of conveyORIZED vapor degreasers that carry out solvent cleaning processes of metal parts using a solution containing VOCs, with exceptions. After December 1, 2020, the rule also applies to cleaning of non-metal objects.</p> <p>Subpart 226-2 applies to facilities with actual emissions of three tons or more of VOCs from industrial cleaning solvents on a twelve-month rolling total basis. The rule specifically applies to the cleaning of foreign materials from surfaces of units such as large and small manufactured components, parts, equipment, floors, tanks, and vessels. Emissions from all types of cleaning, including by hand, count toward the three ton total.</p>	<p>The rule took effect November 1, 2019.</p>

Citation	Summary	Implications	Schedule/Notes
WATER			
<p>FEDERAL Recodification of Pre-Existing EPA and Army Corps Definition of “Waters of the United States” 33 CFR Part 328; 40 CFR Parts 110, 112 et al. 84 Fed. Reg. 56626 (Oct. 22, 2019)</p>	<p>EPA and the U.S. Army Corps of Engineers (ACOE) rescinded the 2015 joint rule redefining the term “waters of the United States” and recodified the pre-existing rule. The Clean Water Act (CWA) prohibits the discharge of pollutants into “navigable waters” except in compliance with specific CWA requirements. Navigable waters, in turn, is defined as “waters of the United States.” Over the years, many questions have arisen about the scope of CWA jurisdiction in light of this definition. These questions culminated in a controversial 2015 rule defining the term “waters of the United States” to include specific categories of jurisdictional waters and allowing other waters to be included on a case-by-case basis. The controversial rule was stayed by a federal appellate court shortly after it was enacted. In July 2017, EPA and the ACOE proposed to formally repeal the 2015 rule and recodify the pre-2015 rule that was in effect because of the stay. Per the notice, the agencies proposed to “apply the definition of ‘waters of the United States’ as it is currently being implemented . . . informed by applicable agency guidance documents and consistent with Supreme Court decisions and long-standing practice.” According to the agencies, there was some confusion among the public concerning whether the July 2017 rulemaking was intended to implement a temporary or permanent repeal of the 2015 rule; in addition, many interpreted the notice of the 2015 rule as restricting the public’s ability to comment on the legal and policy reasons for and against repeal. To rectify these and other problems, the agencies published a proposed supplemental rule to clarify that they intended to permanently repeal the 2015 rule, recodify the pre-2015 rule, and seek comment from the public on that proposal. The recent rule finalizes the 2017 proposal to rescind the 2015 waters of the United States rule and reinstates the prior rule. In support of its decision, the agencies concluded, among other things, that the 2015 rule exceeded their authority under the Supreme Court’s “significant nexus” test for identifying waters of the United States.</p> <p>The rule can be found in the October 22, 2019 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The definition of “waters of the United States” implicates virtually all CWA programs, including ACOE § 404 permits, National/State Pollutant Discharge Elimination System (NPDES/SPDES) wastewater discharge permits, and CWA § 401 water quality certifications. Although the 2015 rule was intended to clarify the scope of the CWA, representatives of various industries, including agriculture, oil and gas, and residential development, strongly objected to the change, arguing that it significantly expanded the agencies’ jurisdiction. In February 2017, President Trump issued an executive order directing the agencies to review the 2015 rule for consistency with certain policies and propose rescission, if appropriate.</p>	<p>The final rule takes effect December 23, 2019.</p>

Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
CLIMATE CHANGE			
<p>NEW YORK STATE Transportation and Climate Initiative Framework Document</p>	<p>DEC scheduled a series of meetings and requested comment on the proposed framework for the multi-state Transportation and Climate Initiative (TCI). In June 2011, various northeastern states, including New York, signed an agreement committing to work together to promote sustainable communities that expand transportation options and achieve other similar goals. Core work areas included developing clean vehicles and alternative fuels, creating sustainable communities, and advancing more efficient freight movement. Significant attention focused on promoting plug-in electric vehicles, including facilitating development of the necessary charging infrastructure. A subgroup of TCI states (excluding New York) subsequently announced plans to work together to develop market-based policies to achieve significant reductions in greenhouse gases (GHGs) and other pollutants from the transportation sector. The 2018 announcement called for designing a new regional low-carbon transportation policy that would include a cap-and-trade program or other pricing mechanism to reduce GHG emissions from the transportation sector. In October 2019, the TCI states issued a <i>Framework for a Draft Regional Policy Proposal</i>, identifying the key design elements for a planned cap-and-trade program that will cover emissions of carbon dioxide from the combustion of motor gasoline and on-road diesel fuel and, potentially, biofuels. These elements include: equity (e.g., environmental justice, non-discrimination, and meaningful public participation); applicability; regulated entities (consisting of owners of fuel at terminals in a TCI jurisdiction and owners of fuel delivered into the jurisdiction for final sale or consumption in the state); emissions reporting; monitoring and verification; flexibility and cost containment; auctions and allocations; regional caps and allowance budgets for each jurisdiction; market monitoring and auction administration; investment of proceeds; and complementary policies. With the recent notice, DEC and the New York State Energy Research and Development Authority announced a series of meetings to discuss the TCI and asked for input from the public on the TCI framework.</p> <p>Key TCI-related documents, including the 2018 TCI framework, can be found at: www.transportationandclimate.org.</p>	<p>The TCI, if implemented, will have a broad impact on the transportation sector of the economy. Transportation fuel suppliers will be subject to a regional carbon dioxide cap and required to hold allowances equal to the carbon dioxide from combustion of transportation fuel sold into the TCI region and combusted. The framework calls for allocating virtually 100% of the allowances to fuel suppliers via a state-sponsored auction, with the proceeds likely allocated to state programs designed to achieve carbon emission reductions and other similar policy goals.</p>	<p>Individuals interested in commenting on the TCI framework document can submit their comments through the TCI portal. There is no deadline for submission. However, any comments should be submitted reasonably soon since the TCI states plan to issue a final memorandum of understanding in Spring 2020, at which point each state will decide whether to participate in the TCI.</p>

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HAZARDOUS WASTE			
<p>NEW YORK STATE Rulemaking Initiative to Revise Hazardous Waste Regulations 6 NYCRR Parts 370-374 and 376</p>	<p>DEC is seeking input on possible changes to the state hazardous waste regulations to incorporate major changes to the federal rules adopted since 2013. Although DEC must adopt several rules to maintain delegation of the federal program, others are optional. Regulations covered by this initiative include:</p> <ul style="list-style-type: none"> • Solvent contaminated wipes rule (2013). EPA revised the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused, and revised the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. New York previously issued Program Policy DSW-HW-03-09, <i>Regulatory Status of Laundered Industrial Rags and Soiled Clothing</i>, which is more stringent than the EPA wipes rule in several ways. DEC is exploring options for incorporating the federal rule. • Carbon dioxide sequestration rule (2014). This rule excludes carbon dioxide waste streams from power plants and other industrial sources from the definition of hazardous waste provided they are captured and injected into Class VI underground injection control wells for geological sequestration and comply with other requirements. • Hazardous waste electronic manifest (e-manifest) rules (2014; 2018). The e-manifest system launched nationwide on June 30, 2018. DEC must adopt the e-manifest regulations to conform to the federal program. DEC expects to continue collecting certain state-specific information (e.g., PCB waste codes and disposal method codes, which are collected for regulatory fee purposes). • Definition of solid waste rule (as amended January 2015). In 2008, EPA issued the “Definition of Solid Waste Rule” to promote the recycling of hazardous secondary materials. EPA significantly revised the rule in 2015 to address concerns raised by numerous states that the rule was not sufficiently protective. Certain provisions of the rule are mandatory and must be adopted by the State (e.g., definition of “legitimate recycling,” prohibition of sham recycling, and new recordkeeping requirements to show waste is not accumulated speculatively). Otherwise, DEC is considering whether to adopt all or part of the rule. • Hazardous waste generator improvements rule (2016). This rule restructured the hazardous waste generator provisions to make them more user friendly and address regulatory gaps. Key provisions include adding procedures to address episodic waste generation, authorizing waivers from the 50-foot setback for large quantity generators, allowing consolidation of waste from very small quantity generators by a large quantity generator under common control, and requiring marking containers and tanks of hazardous waste to indicate the hazards of their contents. • Hazardous waste pharmaceuticals (2019). EPA adopted a rule addressing the management of hazardous waste pharmaceuticals by health care facilities and reverse distributors (companies that receive and manage unused pharmaceuticals from health care facilities). The rule prohibits health care facilities from disposing of waste pharmaceuticals down the drain as of August 21, 2019. <p>Information about the possible changes can be found at: www.dec.ny.gov/regulations/117115.html.</p>	<p>The announcement is potentially of interest to anyone regulated under the hazardous waste program. Certain requirements—such as the e-manifest program—are already being implemented while others require DEC rulemaking.</p> <p>In addition to the listed rules, DEC is considering whether to pursue other recent changes to the federal hazardous waste import/export requirements. DEC also is taking comment on the following EPA rulemakings: a 2018 proposal to add aerosol cans to the universal waste regulations; a 2018 interim final rule addressing safe management of recalled airbags; and a 2019 proposal to modernize the rules for making ignitable liquid determinations. DEC also is considering certain state-only changes.</p>	<p>A public workshop on the possible changes is scheduled for December 10, 2019 at 10:00 a.m. at DEC’s Central Office, 625 Broadway, Room 129, Albany. DEC also is accepting written comments on the changes under consideration.</p>

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WATER			
<p>FEDERAL National Primary Drinking Water Regulations: Proposed Lead and Copper Rule Revisions 40 CFR Parts 141 and 142 84 Fed. Reg. 61684 (Nov. 13, 2019)</p>	<p>EPA proposed major changes to its lead and copper rule (LCR) under the Safe Drinking Water Act (SDWA) to target actions to reduce lead exposure to areas with the greatest problems, improve sampling methods, and increase public outreach. The current LCR establishes a lead action level of 15 parts per billion (ppb) in drinking water, together with requirements to sample lead service lines (LSL) and implement measures to reduce lead levels via corrosion control, LSL replacement and other measures. With the recent rulemaking, EPA is proposing the following changes:</p> <ul style="list-style-type: none"> • Trigger level/treatment. EPA is proposing to establish a new “trigger level” for lead of 10 ppb. Exceeding the trigger level will require systems that currently treat for corrosion to reoptimize their existing treatment. Systems that do not have treatment would be required to conduct a corrosion control study. Currently, treatment requirements are based primarily on system size. • LSL inventory. For the first time, all public water systems will be required to conduct a comprehensive LSL inventory, which will be available to the public. Currently, systems are only required to inventory for purposes of identifying sites for tap sampling; these inventories are not public. • LSL replacement. EPA is proposing to: (1) require water systems to replace the water system-owned portion of an LSL whenever the customer replaces their portion of the line; (2) require initiation of LSL replacement programs when lead levels exceed the 10 ppb trigger level based on a plan developed with the state; (3) require replacement of at least 3% of LSLs annually for systems that are above the 15 ppb action level; and (4) allow flexibility for smaller systems that exceed the trigger and action levels. In addition, EPA is proposing to eliminate a provision allowing municipalities to “test out” to avoid LSL replacement and prohibit most partial LSL replacements based on evidence showing that they may increase short-term lead exposure. • Tap sampling procedures. Under the proposed regulations, the tap sampling rules would be revised to prohibit flushing systems before sampling, removing and/or cleaning faucet aerators, and using narrow-necked collection bottles, all of which can mask elevated lead levels. Also, EPA will now require sampling in homes with LSLs. The current law only requires systems with LSLs to collect 50% of samples from sites served by LSLs. • Public outreach. The proposed regulations require systems to notify customers of action level exceedances within 24 hours and conduct regular outreach to homeowners with LSLs to apprise them of lead exposure protection measures. • Lead in schools. EPA is proposing to require lead sampling at schools and child care facilities served by public water systems. <p>The proposed rule can be found in the November 13, 2019 Federal Register at www.govinfo.gov.</p>	<p>The proposed rule is of interest to owners/operators of public water systems regulated under the LCR. More generally, it is of interest to owners/residents of homes and businesses served by LSLs.</p> <p>The rulemaking represents the first major revisions to the LCR since it was adopted in 1991 and is part of a larger Trump administration Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts issued in December 2018. The proposal does not include revisions to the copper requirements of the existing LCR.</p>	<p>EPA is accepting comments on the proposed rule until January 13, 2020.</p>

Other Recent Developments (Final)

HAZARDOUS WASTE

NEW YORK STATE: DEC has issued a pair of **enforcement discretion letters** announcing its intent to implement certain requirements of the federal hazardous waste regulations pending changes to their New York counterparts. The first letter addresses the management of defective airbags, which are often considered ignitable or reactive waste when disposed. New York law requires facilities to remove undeployed airbags from vehicles before the vehicles are crushed or shredded, while at the same time prohibiting resale. Accordingly, most airbags are deployed prior to disposal, eliminating the hazardous waste characteristics. However, deployment is not a safe option in the case of defective airbags, such as those subject to the recent Takata airbag recall. As a result, those responsible for implementing the recall (e.g., auto dealers) were faced with generating large quantities of hazardous waste (i.e., undeployed airbags). In November 2018, EPA issued an interim final rule to facilitate collection and disposal of the remaining defective airbags, which allows “airbag waste collection facilities” to receive airbag waste without a hazardous waste permit provided certain conditions are met. The recent enforcement discretion letter implements the federal requirements and imposes several additional conditions, including requiring airbag waste handlers (e.g., auto dealers, vehicle dismantling facilities) to keep records showing the airbags were sent to an authorized airbag waste collection facility. The second enforcement discretion memorandum defers to an EPA final rule amending the hazardous waste listing for nicotine and salts (P075) to exclude Food and Drug Administration-approved over-the-counter nicotine replacement therapy products from regulation as hazardous waste when disposed. These memoranda can be found on DEC’s website at: www.dec.ny.gov/docs/materials_minerals_pdf/airbagenfordisc.pdf and www.dec.ny.gov/docs/materials_minerals_pdf/ednicotine.pdf, respectively.

Implications: The letters are primarily of interest to entities involved in managing the removal and disposal of defective airbags and pharmacies and others managing unwanted nicotine replacement therapy products.

ENFORCEMENT

FEDERAL: The head of the U.S. Department of Justice’s (DOJ) Environment and Natural Resources Division issued a memorandum strictly **limiting the use of supplemental environmental projects** (SEPs) in settlements with state and local governments. Under long-standing DOJ policy, an alleged violator may agree as part of a settlement to undertake an environmentally beneficial project not otherwise required in exchange for a lower civil penalty. Advocates for SEPs argue that they encourage settlement and result in the implementation of environmentally beneficial projects. In the recent memorandum, entitled *Using Supplemental Environmental Projects (“SEPs”) in Settlements with State and Local Governments*, DOJ expressed concerns that Congress never expressly authorized SEPs and that their use undermines the local democratic process by funding projects that have not been approved by local elected officials. On the federal level, DOJ contends that limiting SEPs promotes respect for the constitutional balance between Congress and the executive since SEPs arguably override Congress’s authority by redirecting funds from the Treasury in exchange for projects that

Congress has not approved. The new SEP policy has been broadly criticized by many environmental law practitioners on the ground that it will discourage settlement of environmental actions. It is unclear whether DOJ intends to extend the policy to settlements involving private parties. The memorandum can be found on DOJ's website at: www.justice.gov/enrd/page/file/1197056/download.

Implications: The memorandum is of general interest to those potentially subject to EPA civil enforcement actions.

Other Recent Developments (Proposed)

AIR

FEDERAL: EPA proposed the **results of its residual risk/periodic technology review of the National Emission Standards for Hazardous Air Pollutants** (NESHAP) for the following source categories set forth at 40 CFR Part 63:

- **Organic Liquids Distribution (Non-Gasoline)** (subpart EEEE): Applies to major HAP sources engaged in activities associated with the storage and distribution of organic liquids other than gasoline at sites that serve as distribution points from which organic liquids may be obtained for further use and processing. EPA estimates that there are approximately 177 facilities currently subject to this NESHAP. 84 Fed. Reg. 56288 (Oct. 21, 2019) (Comments due December 5, 2019).
- **Rubber Tire Manufacturing** (subpart XXXX): Applies to major HAP sources that manufacture rubber tires. EPA estimates that there are approximately 21 facilities currently subject to this NESHAP. 84 Fed. Reg. 58268 (Oct. 30, 2019) (Comments due December 16, 2019).
- **Surface Coating of Automobiles and Light-Duty Trucks** (subpart IIII): Applies to major HAP sources engaged in the application of topcoats or other coatings to new automobile or light-duty truck bodies or new or aftermarket vehicle body parts. EPA estimates that there are approximately 43 facilities currently subject to this NESHAP. 84 Fed. Reg. 58936 (Nov. 1, 2019) (Comments due December 16, 2019).
- **Surface Coating of Miscellaneous Metal Parts and Products** (subpart MMMM): Applies to major HAP sources engaged in the surface coating of metal parts not covered by other, more specific surface coating NESHAPs. EPA estimates that there are approximately 368 facilities currently subject to this NESHAP. 84 Fed. Reg. 58936 (Nov. 1, 2019) (comments due December 16, 2019).
- **Surface Coating of Plastic Parts and Products** (subpart PPPP): Applies to major HAP sources engaged in the surface coating of plastic parts that are not covered by other, more specific surface coating NESHAPs. EPA estimates that there are approximately 125 facilities currently subject to this NESHAP. 84 Fed. Reg. 58936 (Nov. 1, 2019) (comments due December 16, 2019).

With one exception, after reviewing each existing major source standard, EPA concluded under Clean Air Act (CAA) § 112(f) that the risks remaining after application of the NESHAP were acceptable and that the standard protects public health with an ample margin of safety. EPA found under CAA § 112(d)(6) that there were no cost-effective developments in practices, processes or control technologies and that no changes in the NESHAPs were necessary to address technological improvements. In the case of the organics liquid distribution standard, EPA is proposing amendments to the storage tank and equipment leak requirements as a result of the residual risk

and periodic technology review. As part of these rulemakings, EPA also proposed to revise the rules relating to startup, shutdown and malfunction consistent with judicial rulings. In addition, EPA proposed to require facilities covered by these NESHAPs to submit electronic copies of required performance test results and other reports and make other updates and corrections. As part of the rulemaking, EPA also proposed technical corrections to the surface coating NESHAPs for large appliances (subpart NNNN) and metal furniture (subpart RRRR) and the NESHAP for printing, coating and dyeing of fabrics and other textiles (subpart OOOO). The proposed rules can be accessed at: www.govinfo.gov.

WATER

FEDERAL: EPA issued its preliminary **Effluent Guidelines Program Plan** identifying new or existing categories of industrial wastewater dischargers that have been selected for development or review of effluent limitations guidelines and/or pretreatment standards (ELGs) and other initiatives to improve its annual review and biennial planning process. The plan establishes a framework for developing technology-based effluent limits for specific categories of direct and/or indirect wastewater dischargers. These effluent limits are then incorporated into NPDES/SPDES permits or pretreatment permits unless superseded by stricter water quality-based limits. In the preliminary plan, EPA: discussed its ongoing rulemaking for the steam electric power generating point source category, which was revised in 2015 to impose strict new standards and is currently under review; found that no additional categories warrant new or revised ELGs at this time; and provided an update of its review of the electrical and electronic components, oil and gas extraction, and petroleum refining point source category studies. EPA also discussed various data gathering and compilation initiatives designed to improve knowledge about industrial wastewater discharges as well as access to that knowledge. These initiatives include: compiling ELG information into a consolidated ELG database; analyzing nutrient discharges in industrial wastewater; assessing per- and polyfluoroalkyl substances (PFAS) in industrial sources and discharges; continuing to collect industrial wastewater treatment performance information to populate EPA's Industrial Wastewater Treatment Technology Database; and initiating a more comprehensive review of industrial wastewater treatment technologies. EPA is accepting comment on the preliminary plan until **November 25, 2019**; information about the plan can be found in the October 24, 2019 Federal Register at: www.govinfo.gov.

Implications: The notice is generally of interest to facilities regulated under one or more of EPA's source category-specific effluent limitations guidelines or standards.

FEDERAL: EPA proposed a rule **modifying and updating its testing procedures approved for analysis and sampling under the CWA**. The CWA requires facilities with NPDES/SPDES permits to sample and analyze their wastewater discharges in accordance with procedures approved by EPA. With the recent rulemaking, EPA proposed to revise the list of approved methods set forth in 40 CFR Part 136 to: add new or revised methods approved by consensus organizations that are similar to methods previously adopted as EPA approved methods; incorporate methods reviewed under EPA's alternative test procedure program and preliminarily accepted for nationwide use; and make other updates and corrections. EPA is accepting comments on the proposed rule until **December 23, 2019**; it can be found in the October 22, 2019 Federal Register at: www.govinfo.gov.

Implications: The proposed rule is of general interest to any facility subject to a NPDES/SPDES permit or otherwise required to monitor wastewater discharges in accordance with 40 CFR Part 136.

ENFORCEMENT

NEW YORK STATE: DEC is proposing to replace its existing **procedures for conducting enforcement hearings** to reflect current practice, incorporate procedural and legal developments, ensure consistency with the Civil Practice Law and Rules, where appropriate, and make other changes and updates. The regulations, which are set forth at 6 NYCRR Part 622, cover DEC enforcement hearings as well as summary abatement and other similar emergency proceedings, and address such matters as commencement of a proceeding, preparing an answer, general rules of practice, disclosure, the conduct of a hearing, and other procedural matters. Part 622 has not been revised since 1993 and so is somewhat out of date. Changes proposed as part of the current rulemaking include: adding numerous definitions; revising the procedures for commencing a proceeding, including establishing procedures for challenging petroleum delivery prohibitions; codifying the practice of granting a default if the respondent fails to appear at the prehearing conference and the time to answer the complaint has expired; clarifying certain motion procedures; revising the default procedures to reflect current Department practice; and adding a new section describing the mediation process. A public hearing on the proposed revisions is scheduled for January 7, 2020, 1:00 p.m. at DEC's Central Office, 625 Broadway, Albany. The Department is accepting comments on the proposed regulation until **January 31, 2020**; it can be found at: www.dec.ny.gov/regulations/118492.html.

Implications: The proposed changes are potentially of interest to anyone who may be subject to a DEC enforcement action.

OTHER

NEW YORK STATE: DEC is seeking comment on **preliminary proposed changes to New York's list of endangered and threatened species**, which is contained in 6 NYCRR § 182.5. Species listed as endangered or threatened under New York's Endangered Species Law are a priority for DEC monitoring and management. Projects that could adversely affect either the species or its habitat must obtain a permit limiting the allowable "take" of the species. DEC's recent announcement calls for removal of several prominent species—most notably the bald eagle and peregrine falcon—from the list of endangered and threatened species, while other species are proposed to be added. In all, DEC is proposing to remove 19 species from the endangered and threatened list either because populations of the species in the State have recovered in number and/or range or because the species is no longer found in New York. In addition, DEC is proposing to list 18 other species as threatened or endangered for the first time, entitling them to protection under the law. These include several species of freshwater mussels, the common nighthawk, and the eastern hellbender, a type of salamander. DEC is accepting comment on the preliminary list until **December 24, 2019**; key documents can be found on DEC's website at: www.dec.ny.gov/regulations/34113.html.

Implications: The preliminary rule is potentially of interest to wildlife enthusiasts and to developers undertaking projects that could potentially impact a listed species or its habitat.

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

November 21, 2019: Deadline for submitting comments on EPA's list of high-priority substances for purposes of risk evaluation under TSCA. See the August 23, 2019 Federal Register at www.govinfo.gov for details.

November 25, 2019: Deadline for submitting comments on EPA's proposed revisions to the NSPS for sources in the oil and natural gas sector. See the September 24, 2019 Federal Register at www.govinfo.gov for details.

November 25, 2019: Deadline for submitting comments on EPA's Preliminary Effluent Guidelines Program Plan 14. See the October 24, 2019 Federal Register at www.govinfo.gov for details.

November 25, 2019: Deadline for submitting comments on DEC's proposed rule addressing emissions from distributed generation sources. See DEC's website at www.dec.ny.gov/regulations/117975.html for details.

December 5, 2019: Deadline for submitting comments on EPA's proposed residual risk/periodic technology review findings for the major source organic liquids distribution (non-gasoline) NESHAP source category. See the October 21, 2019 Federal Register at www.govinfo.gov for details.

December 6, 2019: Deadline for submitting comments on EPA's proposed residual risk/periodic technology review findings for the major and area source iron and steel foundry NESHAPs and the major source generic MACT for ethylene production (extended from November 25, 2019). See the October 9, 2019 Federal Register at www.govinfo.gov for details.

December 6, 2019: Public hearing on DEC's proposed revisions to incinerator regulations, including requirements for crematories and MSW incinerators, to be held at 11:00 a.m. at DEC's Central Office, 625 Broadway, Room 129, Albany. Additional public hearings are scheduled in early December in Hauppauge and Avon.

December 9, 2019: Deadline for submitting information in response to OSHA RFI relating to development of a new online delivery model for OSHA's Outreach Training Program. See the October 8, 2019 Federal Register at www.govinfo.gov for details.

December 10, 2019: Public workshop scheduled on DEC's proposed rulemaking initiative to revise and update the hazardous waste regulations to incorporate EPA regulations adopted since 2013. The workshop will be held at 10:00 a.m. at DEC's Central Office, 625

Broadway, Room 129, Albany. Information about the initiative can be found on DEC's website at: www.dec.ny.gov/regulations/117115.html.

December 11, 2019: Deadline for submitting comments on DEC's proposed revisions to its incinerator regulations, including the requirements for crematories and MSW incinerators. See DEC's website at www.dec.ny.gov/regulations/118193.html for details.

December 16, 2019: Deadline for submitting comments on EPA's draft *National Water Reuse Action Plan*. See EPA's website at www.epa.gov/waterreuse/water-reuse-action-plan for a copy of the plan.

December 16, 2019: Deadline for submitting comments on EPA's proposed residual risk/periodic technology review findings for the rubber tire manufacturing NESHAP source category. See the October 30, 2019 Federal Register at www.govinfo.gov for details.

December 16, 2019: Deadline for submitting comments on EPA's proposed residual risk/periodic technology review findings for the following NESHAP source categories: surface coating of automobiles and light-duty trucks; surface coating of miscellaneous metal parts and products; and surface coating of plastic parts and products. See the November 1, 2019 Federal Register at www.govinfo.gov for details.

December 23, 2019: Deadline for submitting comments on EPA's proposed update to its NPDES/SPDES monitoring regulations. See the October 22, 2019 Federal Register at www.govinfo.gov for details.

December 24, 2019: Deadline for submitting comments on DEC's announced changes to New York's list of endangered and threatened species. See DEC's website at www.dec.ny.gov/regulations/34113.html for details.

January 7, 2020: Public hearing on proposed revisions to DEC's procedures for conducting enforcement hearings to be held at 1:00 p.m. at DEC's Central Office, 625 Broadway, Albany.

January 13, 2020: Deadline for submitting comments on EPA's proposed revisions to the SDWA's lead and copper rule. See the November 13, 2019 Federal Register at www.govinfo.gov for details.

January 31, 2020: Deadline for submitting comments on DEC's proposed update to its procedures for enforcement and related hearings. See DEC's website at www.dec.ny.gov/regulations/118492.html for details.